

**State of New Hampshire  
Board of Medicine  
Concord, New Hampshire 03301**

In the Matter of:  
Douglas R. Howard, M.D.  
No.: 10839  
(Misconduct Allegations)

**SETTLEMENT AGREEMENT**

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of medicine, the New Hampshire Board of Medicine (“Board”) and Douglas R. Howard, M.D. (“Dr. Howard” or “Respondent”), a physician licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 329:17, I, 329:18 and 329:18-a, and Medical Administrative Rule (“Med”) 206 and 210, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by physicians. Pursuant to RSA 329:18-a, III, the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. Pursuant to RSA 329:17-c and Med 504.01, the NH Board also has jurisdiction to conduct a reciprocal proceeding against a physician upon receipt of an administratively final order from the licensing authority of another jurisdiction, which imposed disciplinary sanctions against the physician. When reciprocal proceedings are conducted, the NH Board is authorized to impose any disciplinary sanction permitted by RSA 329:17, VI, 329:17-c and Med 504.01 (b) and Med 506.02.

3. If a disciplinary proceeding were conducted in this case, the allegations against the Respondent would be that he committed professional misconduct pursuant to RSA 329:17, VI (b) (habitual use of drugs or intoxicants), (d) (engaging in dishonest or unprofessional conduct), (i) (has willfully or repeatedly violated any provisions of the law or rules governing the Board) and (j) (has been convicted of a felony).
4. In support of these grounds upon which the NH Board could conduct proceedings against Respondent, the Board states:
  - A. On January 31, 2007, the NH Board received notice that Respondent had been disciplined by the Board of Registration in Medicine for the Commonwealth of Massachusetts ("Mass Board"). A copy of the final administrative orders were obtained. (Attachment 1) The conduct at issue is described therein.
  - B. Respondent entered into the administrative final order with the Mass Board in November of 2006.
5. Respondent agrees that by the above stated conduct, he violated the provisions of RSA 329:17, VI (b), (d), (i) and (j).
6. Respondent acknowledges the NH Board's authority to reciprocally discipline him, pursuant to RSA 329:17-c and Med 504.01, and based upon the final administrative orders of the Mass Board, which imposed discipline against him.
7. Respondent consents to the following disciplinary and reciprocal action by the NH Board:
  - A. Respondent's license to practice medicine in the State of New Hampshire is revoked retroactive to February 2, 2005, the date on which he entered into a

voluntary agreement with the Mass Board not to practice medicine. Respondent may petition for reinstatement of his license to practice medicine on or after February 2, 2010.

B. Respondent must abide by all conditions placed upon him by the Mass Board as stated in the attached Consent Order. (**Attachment 1**)

8. The Board may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondent's license.
9. For a continuing period of five (5) years from the effective date of this *Settlement Agreement*, Respondent shall furnish a copy of this *Settlement Agreement* to any employer to which Respondent may apply for work as a physician or for work in any capacity which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any agency or authority that licenses, certifies or credentials physicians, to which Respondent may apply for any such professional privileges or recognition.
10. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 329:17, VI (d) and a separate and sufficient basis for further disciplinary action by the Board.
11. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future.

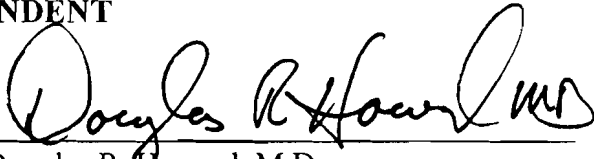
Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

12. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
13. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
14. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
15. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
16. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this agreement.
17. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is rejected by the Board.

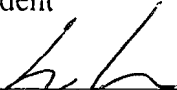
18. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
19. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein.
20. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

**FOR RESPONDENT**

Date: 2/26/17

  
Douglas R. Howard, M.D.  
Respondent

Date: 2/20/17

  
Sean E. Cappiis  
Counsel for Respondent

**FOR THE BOARD/\***

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 3/13/07

Penny Taylor  
(Signature)

PENNY TAYLOR  
(Print or Type Name)  
Authorized Representative of the  
New Hampshire Board of Medicine

/\* James Sise, MD, Board member, recused.

173498

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

BOARD OF REGISTRATION  
IN MEDICINE

Adjudicatory Case No. 2006-054

In the Matter of

Douglas Howard, M.D.



CONSENT ORDER

Douglas Howard, M.D. (Respondent) and Complaint Counsel agree that the Board of Registration in Medicine (Board) may issue this Consent Order, in lieu of convening an adjudicatory hearing, with all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the Findings of Fact specified below and agrees that the Board may make the conclusions of law and impose the sanctions set forth below.

FINDINGS OF FACT

1. The Respondent was born on March 13, 1948 and graduated from George Washington University School of Medicine and Health Science in 1974. He has been licensed to practice medicine in Massachusetts since July 27, 1979 under registration number 44557. He is board certified in orthopedic surgery. The Respondent maintained a private medical office in Melrose, Massachusetts and reported privileges at various Hallmark Health facilities including Lawrence Memorial Hospital, Melrose Wakefield Hospital, Whidden Memorial Hospital and Malden Hospital.

2. On January 28, 2005, the Respondent was arrested by Massachusetts State Police and Billerica Police detectives and charged with numerous narcotics related offenses.

3. On January 31, 2005, Hallmark Health suspended the Respondent's privileges as a result of his arrest.

4. On February 2, 2005, the Respondent entered into a voluntary agreement not to practice medicine with the Board.

5. Patient A, a 41 year old female, first began seeing the Respondent in 1999 for back pain. He treated her with various narcotics, including Vicodin and Oxycontin.

6. The Respondent supplied Patient A with an Oxycontin prescription in exchange for her supplying him with half the pills that she received from that prescription. At times, Patient A also provided the Respondent with cocaine, Ecstasy and marijuana.

7. On January 27, 2005, an undercover Massachusetts State Trooper (Trooper) went with Patient A to meet the Respondent at his house in Wakefield.

8. The Respondent wrote out two prescriptions for Patient A; one for 60 tablets of Oxycontin and the other for 40 tablets of Norco.

9. The Respondent went to the pharmacy with the Trooper and Patient A. During the drive there, Patient A gave the Respondent a box of amyl nitrite ampules she had picked up for him earlier that day. The Respondent had previously written her a prescription for them with instructions to give the ampules to him.

10. At the pharmacy, the Respondent wrote a prescription to Patient A's husband for 60 tablets of Oxycontin and gave it to Patient A to fill. Patient A went into the pharmacy but was only allowed to fill one prescription in her name.



11. They then all returned to the Respondent's house where the Respondent asked Patient A about getting him some Ecstasy. Patient A told him that the Trooper would get it for him and they made plans to meet the next night to exchange the Ecstasy for Oxycontin.

12. Before the women left, the Trooper asked the Respondent for something for the long car ride back to Billerica. The Respondent gave the Trooper 5 Oxycontin pills.

13. On January 28, 2005, the Trooper returned to the Respondent's home. She gave the Respondent ten Ecstasy pills and he in turn gave her a prescription bottle with Patient A's name on the label. The bottle contained 31 tablets of Oxycontin.

14. The Trooper asked how she could get her own prescription for Oxycontin. The Respondent told her that she would need to go to his office and fill out some paper work indicating that she had back problems and he would then give her a prescription.

15. Later that same evening, Massachusetts State Police and Billerica Police detectives executed a search warrant at the Respondent's home, seizing various controlled substances and illegal narcotics.

16. The Respondent was arrested and made admissions to the police.

17. The Respondent also abused alcohol and would drink regularly. The Respondent denies ever drinking when he was treating patients.

18. The Respondent was indicted by a Middlesex County Grand Jury on June 30, 2005.

19. On September 30, 2005, the Respondent entered pleas of guilty to four counts of Possession of a Class B controlled substance (to wit: oxycodone and oxycodone prescriptions) with Intent to Distribute; three counts of Possession of a Class B controlled substance (to wit: cocaine, oxycodone and methylenedioxymethamphetamine); three counts of Possession of a Class C controlled substance (to wit: dihydrocodeinone with

acetaminophen, chlordiazepoxide, and dihydrocodeinone with ibuprofen); one count of Possession of a Class D controlled substance (to wit: marijuana); and four counts of Possession of a Class E controlled substance (to wit: amyl nitrite, xylocaine injectable, and marcaine injectable). He was sentenced to two and a half years in the House of Correction, three months to serve, the balance suspended for four years on the indictments alleging the Possession with Intent to Distribute oxycodone and oxycodone prescriptions. He was sentenced to four years supervised probation from and after the aforementioned sentences on the indictment alleging Possession of methylenedioxymethamphetamine.

20. Conditions of the Respondent's probation include nine months of house confinement with electronic bracelet monitoring. The Respondent's sentence was reduced to sixty days in the House of Correction and to eight months of home confinement. The home confinement was completed on or about August 1, 2006. The Respondent remains on probation.

21. The Respondent entered into a chemical dependency monitoring contract with Physician Health Services (PHS) on February 8, 2005. Immediately thereafter, he entered an inpatient chemical dependency treatment program that he completed on May 5, 2005. The Respondent resumed participation in his PHS contract until he was incarcerated on September 30, 2005. While incarcerated, the Respondent was tested regularly for drugs and alcohol. All tests were negative. The Respondent resumed participation in his PHS contract upon his release from incarceration on November 28, 2005. The Respondent has been compliant with his PHS contract.

## CONCLUSIONS OF LAW

- A. The Respondent has violated G.L. c.112 §5(d) and 243 CMR 1.03(5)(a)4, in that he practiced medicine while his ability to do so was impaired by drugs and/or alcohol.
- B. The Respondent has violated M.G.L. c.112, §5(g) and 243 CMR 1.03(5)(a)(7), in that he has been convicted of a crime.
- C. The Respondent has violated G.L. c. 112, §5(b) and 243 CMR 1.03(5)(a)(2), in that he violated provisions of the laws of the Commonwealth relating to the practice of medicine or rule or regulation promulgated thereunder. Specifically, the Respondent has violated G.L. c. 94C §19 in that he has issued prescriptions that were not issued in the usual course of his professional practice.
- D. The Respondent has violated G.L. c. 112, §5(h) and 243 CMR 1.03(5)(a)(11) in that he has violated a rule or regulation of the Board. Pursuant to 243 CMR 2.07(5), a licensee who violates G.L. c. 94C, also violates a rule or regulation of the Board.
- E. The Respondent has violated 243 CMR 1.03(5)(a)(18) in that he committed misconduct in the practice of medicine.

### Sanction

The Respondent's license to practice medicine is revoked retroactive to February 2, 2005, the date on which he entered into the voluntary agreement not to practice medicine. The Respondent may petition for reinstatement of his license to practice medicine on or after February 2, 2010.

This sanction is imposed for Conclusions of Law A, B, C, D, and E individually, and not for a combination thereof.

This sanction is imposed for Docket Number 05-055.

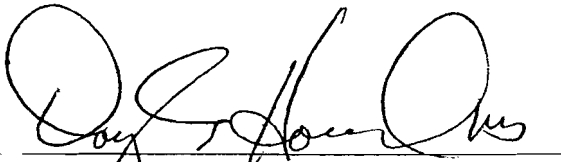
### Execution of Consent Order

The parties agree that the approval of this Consent Order is left to the discretion of the Board. The signature of the Respondent, the Respondent's Attorney and Complaint Counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on the Consent Order. As to any matter this Consent Order leaves to the discretion of the Board, neither the Respondent, nor anyone else acting on his behalf has received any promises or representations regarding the same.


The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order, with all exhibits and attachments, if any, within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in-state or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in-state or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in-state or out-of-state, with which he has a provider contract; any in-state or out-of-state medical employer, whether or not he practices medicine there; the Drug Enforcement Agency, Boston Diversion Group; the Massachusetts Department of Public Health's Drug Control Program, and the state licensing boards of all states in which he has any kind of license to practice medicine. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this revocation. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.

The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above or any other affected entity, or any action it has taken.

  
Douglas Howard, M.D.

Nov 3 2006  
Date


  
John D. Cassidy, Esq.  
Attorney for the Respondent

11.3.06  
Date

  
Barbara A. Piselli, Director of Enforcement

11/3/06  
Date

So ordered, by the Board of Registration in Medicine on this 15 day of  
November, 2006.

  
Martin Crane, M.D.  
Chair

sent certified mail 11/15/06 KJD